

KENNETH J. KELLY
Examination
Me Audet

731 Q- Okay. And how far was this terrace that you were sitting on, or sitting at with Colonel Amaresrit from where the pickup truck was initially with Mr. Flanagan, Mr. Bennett and the Thai girls?

A- Probably a couple hundred feet. 5

732 Q- Couple hundred feet?

A- Probably.

733 Q- Could you see the pickup truck from where you were?

A- Yes.

734 Q- So you saw the initial... what initially occurred? 10

A- Just very sporadic, I was not focusing...

735 Q- What were you focusing on?

A- Just to see the members got what they wanted and everything was in order, that sort of thing.

736 Q- You weren't curious... 15

A- I was not... no, the investigation was the responsibility of the Thais and the chaps from Vancouver.

737 Q- What did you see?

A- What do you mean what do I see? 20

738 Q- You were about a couple of hundred feet, you were in a terrace that overlooked this complete view of the hotel parking lot, you could see the pickup truck with Mr. Flanagan, Mr. Bennett and the Thai girls. What did you see? 25

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A- Well, it's clearly outlined right here what I seen.

739 Q- So tell me.

A- Well, I seen Corporal Bennett that was seen leaving in front of the hotel. At twenty thirty-five hours (20:35) Olivier returned to the hotel parking lot on foot and met with Corporal Bennett and Sergeant Dop. Then a message was received shortly thereafter, and of course, Colonel Amaresrit is receiving this by radio communication, that Corporal Flanagan was around the corner with the two kilos (2 kg) of heroin, and that the suppliers want to see the money. Constable Girdlestone left the terrace area and met with Sergeant Dop. At this point I left the terrace and attempted to meet surreptitiously with either Dop or Girdlestone.

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740 Q- You tried to meet surreptitiously with them?

A- Yes, I did.

741 Q- Why?

A- To find out if everything was okay.

742 Q- Okay.

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A- I was very concerned for the safety of our people.

743 Q- Okay, but wasn't this when... is this after the transaction occurred or before?

A- Before.

744 Q- Before. So where was Mr. Girdlestone before the

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transaction? You said that you were...

A- He was in close proximity to where I was, I guess.

745 Q- Where was that? On the terrace?

A- I have no idea.

746 Q- Well, listen, I wasn't there... 5

A- It was eighteen (18) years ago.

747 Q- Okay. You don't recall where he was?

A- I don't recall, no.

748 Q- Even when you read this letter, you have no
recollection of where he might have been? 10

A- No.

749 Q- And do you have any recollection as to where
Mr. Girdlestone was?

A- No.

750 Q- Do you have any recollection as to what you saw, or 15
you're simply going to say whatever is in the letter
is what happened...

A- Well, that's...

751 Q- ... you have no recollection?

A- My recollection is what you see here in the letter. 20

752 Q- So just to understand, you have no recollection of
those events other than what is written here?

A- More or less, yeah.

753 Q- More or less. So if we go out of this, what is
written here, it's a blank? 25

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A- Yes.

754 Q- So from where you were, just to understand, because
I don't... do we have that picture of Chiang Mai?

(Discussion)

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Me FRANCOIS AUDET:

755 Q- Just to understand, Mr. Kelly, I show you Exhibit P-
88, which would be a photograph of an aerial view of
the Chiang Mai Orchid Hotel, and the *(inaudible)*
Hotel. Could you tell the Court where you would
have been sitting... where you would have been
sitting with Colonel Amaresrit?

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A- Well, I suspect it was right where I'm pointing here
now, because there's the parking lot and there
was... this is the terrace, so...

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756 Q- Maybe we could, with your permission, put an "X",
unless we don't want to tamper with this copy.

(Discussion)

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Me FRANCOIS AUDET:

757 Q- So from where you were, did you see the initial
struggle between Corporal Flanagan and the Thai
woman or the Thai male?

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A- I did not.

758 Q- You weren't able to see any of that?

A- I wasn't.

759 Q- Okay. And as far as Constable Girdlestone was concerned, did you see him anywhere? 5

A- I believe I did, but...

760 Q- Where was he?

A- Well, I was with Amaresrit and I use the plural, I say:

"We observed Corporal Bennett and Constable Girdlestone standing near a telephone booth, waiting." 10

761 Q- Okay. And where was Mr. Olivier?

A- I have no idea.

762 Q- You couldn't see him? 15

A- No.

763 Q- Okay. When was the next time you saw Mr. Olivier that night?

A- I believe when he was under arrest.

764 Q- When he was under arrest? He was in the back seat of a Thai police car? 20

A- No, I think he was... he was under arrest, but he was standing with probably a Thai police officer, I'm not sure.

765 Q- So your recollection of him is standing with a Thai 25

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police officer?

A- Yes.

766 Q- Near the hotel?

A- I can't... I can't exactly recall. I seem to recall that he was in the accompaniment of a Thai police officer. I don't think he was in the vehicle when I seen him, but...

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767 Q- Okay. But you definitely recall having seen him that night?

A- I don't definitely recall, but I think I did.

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768 Q- You think you did. So perhaps we can work with this copy, and here we're going to ask... P-88(a). Could you put an "X" where you were sitting with Colonel Amaresrit?

A- When I place this "X", I cannot say with all certainty, because this is an overhead, but I think probably...

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769 Q- Approximately.

A- Probably...

770 Q- Okay. And are you able to say where that laneway was on this aerial photograph where the transaction began between Mr. Flanagan, Bennett and the Thais in the pickup truck?

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A- Well, I say we arrived in the small soi and parking lot of the *Mang Mai*, which this indicates to me this

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is the Mang Mai, so this must be the soi here.

771 Q- So could you...

A- Or here. I'm not sure. But is this what that says,
or does that say Kwang...

772 Q- That looks like it says Kwang... 5

A- Yes...

773 Q- ... Mai.

A- ... so I have no idea then.

774 Q- And this is the Mang Mai.

A- Exactly. 10

775 Q- I see. So it would be... but this would make it
quite a distance here, we're not talking a couple
hundred feet. I presume; I wasn't there. So it
wouldn't have been... so you're unable to pinpoint
where that laneway would be in this picture? 15

A- Well, not from this picture, I can't, no. I just
can tell you that it was in the Mang Mai Hotel
parking lot complex, wherever that might have been,
somewhere in this area.

776 Q- And are you able to say what distance that was from 20
your Orchid Mai Hotel, where you were sitting with
Colonel Amaresrit?

A- No, I really can't. I can recall running it, but...

777 Q- Are we talking fifty feet (50 ft)? Are we talking 25
a kilometre?

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A- No, no, we're not talking fifty feet (50 ft), nor are we talking a kilometre. I'm not sure how long it was, but...

778 Q- Couple hundred feet?

A- Yeah, probably, or more, yeah.

779 Q- Okay. So basically you can't give us much information...

A- I can't, no.

780 Q- ... with this over...

A- No.

781 Q- ... overhead view?

A- No.

782 Q- Okay. Well, if we come back to here, would it not be correct that you were parked here with Amaresrit just north of the Kwang Mai Hotel, right here, or north? In that direction?

A- I just told you, I can't...

783 Q- You have no recollection?

A- No, I don't. And this is what I identified now.

784 Q- The Mang Mai, could it be that you were making a mistake and it was the Kwang Mai Hotel? No?

A- Either me or the other person made a mistake, yes, one of the two (2) of us.

785 Q- Okay, but you can't say if this is the hotel or not?

A- No, I cannot.

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786 Q- You have no recollection?

A- No.

787 Q- Okay. Now, Mr. Kelly, that evening did you hear a
gun shot?

A- I did not.

788 Q- Was it a quiet evening?

A- It was.

789 Q- And you didn't hear a gun shot?

A- I did not.

790 Q- Mr. Olivier testified to the effect that when he was
in the back of the police vehicle, that he saw you
come up to the Thai authorities, the Thai police,
and say, "One of us got shot, one of us went down."
Do you recall saying that?

A- No.

791 Q- What did you say to the Thai authorities? "One of
us fell down"?

A- I don't think I said anything.

792 Q- You didn't say anything?

A- No.

793 Q- This is about fifteen (15), twenty (20) minutes
after the incident.

A- No.

794 Q- What did you do after, when you... you were with
Colonel Amaresrit, something... tell the Court what

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happened. How did that go?

A- Well, if you read from my notes I said:

"At the far corner of the parking lot in soi we first came up on the scene, where Olivier and a female were being apprehended. Further down the soi, we noticed in her headlights that someone was lying on the left-hand side of the roadway. Upon our arrival, we found Constable Girdlestone attending to Corporal Flanagan. I disembarked the vehicle to assist Colonel Amaresrit, who continued to stop and arrest the occupants of the pickup truck."

Do you want me to continue or...

795 Q- No, it's just I find it curious that you have absolutely no recollection of those events other than what's written in our letter. That's still the case?

A- Yes, I have a hard job remembering my wife's birthday after eighteen (18) years.

796 Q- Okay. So you just have no recollection, you wrote this letter... did you write this letter yourself or did you have help writing it?

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A- No, I would have written it myself.

797 Q- You would have written it yourself?

A- Yes.

798 Q- Did you have it vetted by anybody before you sent it
in?

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A- No, there's no one to vet it.

799 Q- There's no one to vet it? Did you... so you never
said to the Thai police "One of us went down, one of
us got shot"?

A- No.

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800 Q- Okay. And do you have any explanation as to why the
Bangkok media picked up that there was a shooting
and in the newspapers the new few days we talked of
a shooting and a cloud of secrecy surrounding what
happened to Corporal Flanagan?

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A- I have no idea.

801 Q- It didn't come from you?

A- No, it did not come from me.

802 Q- Did you see anybody mention a shooting when you were
there?

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A- I didn't... well, yes, there was talk about it
with... I guess it emanates from the Thai press.
The next morning there was...

803 Q- Okay, but that evening, was anyone saying somebody
got shot?

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A- Not in my presence.

804 Q- You didn't hear that at all...

A- No.

805 Q- ... in your presence?

A- No.

806 Q- Okay. And when was the first time you heard that somebody was alleging that there was... somebody had gotten shot? Was it in the newspapers?

A- It was in the Thai newspapers that very morning.

807 Q- Okay. So I imagine that came as quite the shock to you.

A- Well, yes, of course.

808 Q- Yes, of course? Okay.

A- I mean, anything comes in the media, it seems.

809 Q- Now, when Mr. Olivier was arrested that evening, we know that Mr. Dop, Mr. Bennett and Mr. Girdlestone had to make... or went to make statements. I don't know if they had to make statements, but they made statements to the police authorities. Did you have any input into their statements before the police authorities?

A- I did not.

810 Q- Did you meet those individuals beforehand in order to give them pointers and to tell them what has to be said and what should not be said to the Thai

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authorities?

A- I did not.

811 Q- You had no input at all into what was said?

A- Absolutely none.

812 Q- To your knowledge, did those three (3) individuals,
Mr. Bennett, Mr. Dop and Mr. Girdlestone, meet
anyone from the RCMP in order to give them pointers
and/or instructions as to what's to be said, what
should be said and what should not be said?

A- No.

813 Q- Okay. If I understand correctly, Mr. Pouliot was
already gone at that point in time.

A- He was in Bangkok.

814 Q- Why did you stay?

A- Because that's my job as a liaison officer.

815 Q- You had to stay with the team as long as they were
in Chiang Mai?

A- Had to make sure everything was okay, yeah.

816 Q- Okay. So you returned the next day with Corporal
Flanagan's body to Bangkok?

A- No, that would have been...

817 Q- Or two (2) days later?

A- Two (2) or three (3) days later.

818 Q- Two (2) or three (3) days later, okay. Now, we have
a newspaper article, page 130, in D-2, tab 1.

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A- Tab 1.

819 Q- Tab 1. You're in tab 2. The article starts, it's
in Chiang Mai, it says:

"Bangkok, Tuesday, February twenty-
first (21st), nineteen eighty-nine
(1989)."

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And it starts:

"A veil of secrecy has been thrown
over the fatal shooting during a
drug bust of a man who may work for
a foreign drug suppression agency."

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Now, my question is, were you aware of any veil of
secrecy that was thrown over Mr. Flanagan's...

A- No, their was no veil of secrecy.

820 Q- Were you given instructions as to give out 15
information or to be... not give out information?

A- No, I was under no instructions one way or the
other.

821 Q- You didn't get any instructions at all?

A- None.

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822 Q- Did you hold a press conference on the twenty-first
(21st) of February to explain to the public what
happened?

A- I did not. That would be up to the Thais.

823 Q- That would be up to the Thais?

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A- M'hm.

824 Q- And the fact that it was an RCMP constable that got killed, you didn't think you had...

A- No. No, I didn't think that at all. It would be up to the Thais to release that. 5

825 Q- So if there was a veil of secrecy or if there weren't, it's... you weren't responsible for it?

A- No.

826 Q- It would have been the Thais?

A- That's... 10

827 Q- No, no, I mean...

A- ... reporting.

828 Q- If there were... they seem to think there was. If there was one... we're not saying there was or there wasn't. If there was, it would have been the Thai authorities that were putting up a veil of secrecy, it wasn't you? 15

A- Wasn't me.

829 Q- And you received no authority from... no instructions from the RCMP and/or Ottawa to keep the actual facts of what happened to Mr. Flanagan secret? 20

A- Absolutely not.

830 Q- Okay. Now, you know there was a reenactment made by the Thai authorities as to exactly what happened... 25

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A- Yes.

831 Q- ... correct?

A- M'hm.

832 Q- And you yourself, you received the copies of the videos of what happened?

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A- Yes.

833 Q- And what did you do with those videos?

A- Forwarded them on to Canada.

834 Q- You forwarded them to Canada. How many copies did you send to Canada?

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A- Again, it would be documented here in...

835 Q- Okay. If I suggest you sent five (5) copies, would that seem to make sense to you? Okay, if I... okay, before we get to those video tapes, the audio tapes of what transpired in Chiang Mai, did you ever listen to those audio tapes?

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A- I did not.

836 Q- Did you ever have possession of those audio tapes?

A- I did not.

837 Q- Did you ever have anything to do with the transcription of those audio tapes?

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A- I did not.

838 Q- Who was in charge of those audio tapes?

A- The undercover operators.

839 Q- Okay. And do you know which one...

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Re-examination
Me Audet

RE-EXAMINATION BY Me FRANCOIS AUDET:

1163 Q- Mr. Kelly, did you go to Mr. Flanagan's funeral?

A- I did.

1164 Q- And to your knowledge, was he cremated?

A- I believe so.

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1165 Q- You believe so. And do you know when his funeral was? How much time afterwards? It's not a trick question, it's just to get it into the record.

A- It would be in the file.

1166 Q- Okay. You don't have any...

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A- I don't have the exact... but it's in the file here.

1167 Q- Okay. Would you mind looking at it, just so we can have it officially in the record as to when his funeral was?

A- And I can tell you why he was cremated. It was not the desire of his wife that he be cremated.

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1168 Q- It was whose desire?

A- It was... the body had been so decomposed with the transport back, it wasn't looked after properly. So there was no option, they had to cremate.

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1169 Q- Would you agree that cremating made any autopsy in Canada impossible?

A- I guess it would. I'm not sure whether there was another... no, I don't think there was another autopsy.

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